IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION 3:14-CV-00263-RLV

3:14-CV-00263-RLV (3:92-CR-00034-RLV-1)

ALVIN B. TRUESDALE,)	
Petitioner,)	
v.)	ORDER
UNITED STATES OF AMERICA,)	ORDER
Respondent.)))	

THIS MATTER is before the Court on Petitioner's motion for reconsideration which the Court finds is a successive motion for collateral relief pursuant to 28 U.S.C. § 2255(h).

Petitioner was convicted in this district on one count of continuing criminal enterprise, in violation of 21 U.S.C. § 848, one count of conspiracy to possess with intent to distribute cocaine, in violation of 21 U.S.C. § 846, and four counts of possession with intent to distribute cocaine and aiding and abetting the same, in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2. Petitioner was sentenced on January 22, 1993 by the Honorable Robert D. Potter to a term of life imprisonment. (3:92-CR-00034, Doc. No. 18-1: Judgment).

Since Petitioner's criminal judgment became final he has filed two § 2255 motions in this district and each of those motions have been dismissed. The first § 2255 motion was denied on the merits. See Truesdale v. United States, No. 3:96-CV-00109-RDP (W.D.N.C. Apr. 11, 1996), aff'd, 105 F.3d 650, 1996 U.S. App. LEXIS 38752 (4th Cir. 1996) (per curiam), cert. denied, 522 U.S. 856 (1997). The second § 2255 motion was dismissed without prejudice as an unauthorized, successive § 2255 motion under 28 U.S.C. § 2255(h). See Truesdale v. United States, No. 3:11-

CV-00634-RLV (W.D.N.C. May 29, 2012), <u>dismissed</u>, 506 F. App'x 238 (4th Cir. Jan. 24, 2013) (per curiam).

The Court finds that the present motion for reconsideration is in fact a successive § 2255 motion and Petitioner has not demonstrated that he has obtained authorization from the Fourth Circuit to proceed with a successive § 2255 motion. Accordingly, Petitioner's motion for reconsideration will be denied. 28 U.S.C. § 2255(h). See, e.g, In re Vial, 115 F.3d 1192, 1194 (4th Cir. 1997) (en banc); United States v.Winestock, 340 F.3d 200, 205 (4th Cir. 2003).

IT IS, THEREFORE, ORDERED that Petitioner's motion for reconsideration is **DENIED**. (Doc. No. 5).

IT IS FURTHER ORDERED that Petitioner's motion for an evidentiary hearing is **DENIED**. (Doc. No. 6).

Section 2255 Cases, this Court declines to issue a certificate of appealability as Petitioner has not made a substantial showing of a denial of a constitutional right. 28 U.S.C. § 2253(c)(2); Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003) (stating that in order to satisfy § 2253(c), a petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong); Slack v. McDaniel, 529 U.S. 474, 484 (2000) (holding that when relief is denied on procedural grounds, a petitioner must establish both that the correctness of the dispositive procedural ruling is debatable and that the petition states a debatably valid claim of the denial of a constitutional right).

IT IS SO ORDERED.

Signed: March 27, 2015

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Richard L. Voorhees United States District Judge